

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBIN BLAKE COMBS, SR.,

Plaintiff,

V.

JOSEPH D. LEHMAN, *et al.*

Defendants.

Case No. C08-5063 RJB/KLS

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
RECONSIDERATION
REGARDING SUBMISSION OF
COPIES**

Before the Court is Plaintiff's motion for reconsideration. Dkt. # 90. Mr. Combs asks this Court to reconsider its Order Directing Submission of Identical Copies for Service (Dkt. # 84) because he has since submitted an amended complaint (Dkt. # 85¹) properly incorporating both of his exhausted claims. *Id.* After carefully reviewing Plaintiff's motion and the balance of the record, it appears that Plaintiff is entitled to the relief he seeks.

I. DISCUSSION

Motions for reconsideration are disfavored and will ordinarily be denied in the “absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to the court’s attention earlier with reasonable diligence.” Local Rule CR 7(h)(1).

Due to cross-mailings, delays in the mails, and several delays in the Clerk's office, it appears that Mr. Combs did not receive the Court's Orders or service orders in a timely manner. For example, Mr. Combs states that the envelope containing the Court's Order directing him to submit identical service copies (Dkt. # 84), was post-marked January 29, 2009, although it was docketed on January 20, 2009, and

¹Both the Court and Plaintiff referred to the “second” amended complaint filed on January 6, 2009 as Dkt. # 83. The pleading was subsequently docketed on January 26, 2009 as Dkt. # 85.

1 it was not received by him until February 2, 2009. Dkt. # 90, p. 2.

2 After being granted leave to amend, Mr. Combs submitted what the Court believed to be his
3 amended complaint on December 12, 2008. *See* Dkt. # 81. On December 31, 2008, the Court ordered
4 Mr. Combs to submit service forms so that Dkt. # 81 could be served on the defendants. Dkt. # 82. On
5 January 6, 2009, Mr. Combs filed the second Amended Complaint. Dkt. # 85. These copies were not
6 identical to the amended complaint at Dkt. # 81 and as Mr. Combs had not sought leave nor notified the
7 Court or defense counsel that he was amending his complaint, his second filing was taken to be non-
8 identical copies of Dkt. # 81.

9 Be that as it may, Mr. Combs was granted leave to amend his complaint to allege facts relating to
10 the claims properly exhausted in Log Nos. 0408978 and 0412044. Dkt. # 73, p. 6. He alleges to have
11 done so in the amended complaint which is now docketed at Dkt. # 85. Therefore, the parties are advised
12 that this case shall proceed based on the Amended Complaint at Dkt. # 85.

13 ACCORDINGLY, it is **ORDERED** as follows:

14 (1) Plaintiff's motion for reconsideration (Dkt. # 90) is **GRANTED**.
15 (2) Plaintiff's Amended Complaint (Dkt. # 81) is **STRICKEN** and the Clerk shall remove the
16 word "Proposed" from the docket entry at Dkt. # 85.
17 (3) To avoid further confusion, the Clerk shall make all service copies for service of the
18 Amended Complaint (Dkt. # 85).
19 (4) The parties are referred to the Court's Order Directing Disclosure of Service Addresses
20 and Granting Extension of Time, filed simultaneous hereto, regarding service of the
21 Amended Complaint (Dkt. # 85).

22
23 DATED this 24th day of February, 2009.

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27 Karen L. Strombom
28 United States Magistrate Judge